Supreme Court, U. S.
FILED
APR 19 1976

NO. 75-1254

In the Supreme Court of the United States

OCTOBER TERM, 1975

MICHAEL W. WILLIAMS and
ROBERT O. WILLIAMS, on behalf
of themselves and all others
similarly situated,
Petitioners

v.

AMERICAN AIRLINES, INC. and
TRANS WORLD AIRLINES, INC.

PETITIONERS' REPLY BRIEF

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TABLE OF CASES CITED

Cases	Page
Morgan v. United States, 304 U.S. 1	1
United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332	3

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PETITIONERS' REPLY BRIEF

Petitioners reply to two points raised by the respondents in their brief in opposition to the petition for certiorari.

First, we can distinguish the present case from Morgan v. United States, 304 U.S. 1, on the grounds that the case before the court now involves an admitted and adjudged total denial of notice and hearing and Morgan raised questions about the sufficiency of a hearing or of a "full

hearing."

The Court noted that the administrative hearing in Morgan began after notice on April 7, 1930 and continued until February 10, 1931. The government and appellants were represented by counsel and voluminous testimony and exhibits were introduced. In March, 1931, oral argument was had before the Acting Secretary of Agriculture and appellants submitted a brief. The Secretary issued his order on May 18, 1932 which was later vacated because of changed economic conditions. A re-hearing was begun on October 6, 1932 and the taking of evidence was concluded on November 16, 1932. On March 24, 1933 oral argument was again held by the parties. It appears that there were about 10,000 pages of testimony and over 1000 pages of statistical exhibits. 304 U.S. 16.

How can the respondents analogize those facts to a fact situation where there was a total denial of notice and opportunity to be heard to the public and where a member of the public was bodily excluded from participation in the rate-

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making process!

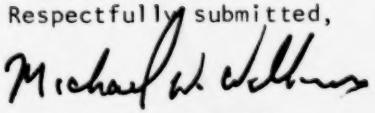
Secondly, respondents' attempt to distinguish United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332, is indeed convoluted. The Supreme Court simply held in that case, in a unanimous decision, that violation of a notice requirement in a federal statute rendered a resulting rate order a nullity.

That same principle is operative within our legal system even in cases not involving constitutional safeguards. A will made without the requisite number of witnesses is a nullity. A corporation never comes into existence if the incorporators fail to meet the requisite age or citizenship requirements, etc., etc.

Almost six years after the inception of this action, with the case receiving the attention of the highest court of the land, respondents have yet to cite a case holding that complete violation of statutory due process requirements renders a resulting quasi-judicial order anything but void. They cannot.

This Court must insure that statutory due process safeguards are adhered to and that acts in violation of those safeguards are given no legal effect. Nothing less than our social, economic and legal order would be adversely affected by the failure to do so.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that three (3) copies of the foregoing Petitioners' Reply Brief were served on each of the respondents by sending said copies air mail, postage prepaid, to the following persons and addresses:

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in conformity with Rules 21 and 33 of the United States Supreme Court, this 16th day of April, 1976.

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